

**House File 2429 - Reprinted**

HOUSE FILE 2429  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 638)

(As Amended and Passed by the House March 13, 2012)

**A BILL FOR**

1 An Act relating to identity theft, providing penalties, and  
2 making penalties applicable.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 715A.8, Code 2011, is amended to read as  
2 follows:

3 **715A.8 Identity theft — offenses — penalties.**

4 1. *a.* For purposes of this section, "*identification*  
5 *information*" includes, but is not limited to, the name,  
6 address, date of birth, telephone number, driver's license  
7 number, nonoperator's identification card number, social  
8 security number, student identification number, military  
9 identification number, alien identification or citizenship  
10 status number, employer identification number, signature,  
11 electronic mail signature, electronic identifier or screen  
12 name, biometric identifier, genetic identification information,  
13 access device, logo, symbol, trademark, place of employment,  
14 employee identification number, parent's legal surname prior to  
15 marriage, demand deposit account number, savings or checking  
16 account number, or credit card number of a person.

17 *b.* For purposes of this section, "*financial institution*"  
18 means the same as defined in section 527.2, and includes an  
19 insurer organized under Title XIII, subtitle 1, of this Code,  
20 or under the laws of any other state or the United States.

21 2. *a.* A person commits the offense of identity theft  
22 if the person ~~fraudulently uses or attempts to fraudulently~~  
23 ~~use identification information of another person, with the~~  
24 ~~intent to obtain credit, property, services, or other benefit~~  
25 knowingly takes, purchases, manufactures, records, possesses,  
26 uses, or attempts to take, purchase, manufacture, record,  
27 possess, or use identification information of another person  
28 or entity without the consent of the other person or entity  
29 with the intent to obtain or use the identification information  
30 for any unlawful purpose, to cause loss to the other person  
31 or entity, to obtain or continue employment, or to obtain any  
32 pecuniary benefit to which the person would not otherwise be  
33 entitled. An offense is committed regardless of whether the  
34 other person or entity actually suffers any economic loss as a  
35 result of the offense or whether the person actually obtains

1 any pecuniary benefit.

2 b. A person commits the offense of knowingly accepting  
3 the identity of another person if the person, in hiring an  
4 employee, knowingly does both of the following:

5 (1) Accepts any identification information of another  
6 person with knowledge that the other person presenting the  
7 identification information is not the actual person identified  
8 by that identification information.

9 (2) Uses the identification information for the purpose of  
10 determining whether the person who presented the identification  
11 information has the legal right or authorization under federal  
12 law to work in the United States as described and determined  
13 pursuant to the processes and procedures under 8 U.S.C. §  
14 1324a.

15 c. (1) A person commits the offense of aggravated identity  
16 theft if the person does either of the following:

17 (a) Knowingly takes, purchases, manufactures, records,  
18 possesses, uses, or attempts to take, purchase, manufacture,  
19 record, possess, or use identification information of five  
20 or more other persons or entities without the consent of the  
21 other persons or entities with the intent to obtain or use the  
22 identification information for any unlawful purpose, to cause  
23 loss to the persons or entities, or to obtain any pecuniary  
24 benefit to which the person would not otherwise be entitled.  
25 An offense is committed regardless of whether the persons or  
26 entities actually suffer any economic loss as a result of the  
27 offense or whether the person actually obtains any pecuniary  
28 benefit.

29 (b) Commits the offense of identity theft under paragraph  
30 "a" and causes another person or entity to suffer an economic  
31 loss of three thousand dollars or more.

32 (2) In an action for aggravated identity theft pursuant to  
33 this paragraph "c", proof of possession outside the regular  
34 course of business of identification information of five or  
35 more persons or entities may give rise to an inference that

1 the identification information was possessed for an unlawful  
 2 purpose.

3 d. A person commits the offense of trafficking identity  
 4 theft if the person knowingly sells, transfers, or transmits  
 5 any identification information of another person or entity  
 6 without the consent of the other person or entity for any  
 7 unlawful purpose, to cause loss to the person or entity, or  
 8 to obtain any pecuniary benefit to which the person would not  
 9 otherwise be entitled. An offense is committed regardless  
 10 of whether the other person or entity actually suffers any  
 11 economic loss as a result of the offense or whether the person  
 12 actually obtains any pecuniary benefit.

13 ~~3. If the value of the credit, property, or services~~  
 14 ~~exceeds one thousand dollars, the person commits a class "D"~~  
 15 ~~felony. If the value of the credit, property, or services~~  
 16 ~~does not exceed one thousand dollars, the person commits an~~  
 17 ~~aggravated misdemeanor. A violation of this subsection shall~~  
 18 ~~be punishable as follows:~~

19 a. A person who violates subsection 2, paragraph "a",  
 20 commits a class "D" felony.

21 b. A person who violates subsection 2, paragraph "b",  
 22 commits a class "D" felony, and notwithstanding section 902.9,  
 23 subsection 5, shall be punished by confinement for no more than  
 24 seven years and a fine of at least eight hundred fifty dollars  
 25 but not more than eight thousand five hundred dollars.

26 c. A person who violates subsection 2, paragraph "c",  
 27 commits a class "C" felony.

28 d. A person who violates subsection 2, paragraph "d",  
 29 commits a class "C" felony, and notwithstanding section 902.9,  
 30 subsection 4, shall be punished by confinement for no more than  
 31 twelve years and a fine of at least one thousand two hundred  
 32 fifty dollars but not more than ten thousand two hundred fifty  
 33 dollars.

34 4. A person of the applicable age indicated in this  
 35 section who knowingly takes, purchases, manufactures, records,

1 possesses, uses, or attempts to take, purchase, manufacture,  
2 record, possess, or use identification information of another  
3 person or entity for the following purposes may be considered  
4 to have violated the applicable statute or ordinance governing  
5 such purposes but shall not be considered to have committed any  
6 offense of identity theft under this section:

7 a. Possession or purchase of alcohol by a person under the  
8 age of twenty-one.

9 b. Entry by a person under the age of twenty-one onto the  
10 premises of an establishment where one may purchase alcoholic  
11 beverages as defined in section 123.3 for consumption on the  
12 premises and in which the serving of food is only incidental to  
13 the consumption of those beverages.

14 c. Entry by a person under the age of seventeen onto the  
15 premises of a motion picture theater for the viewing of a  
16 motion picture which is prohibited to be viewed by persons  
17 under the age of seventeen.

18 d. Possession or purchase of cigarettes or tobacco products  
19 by a person under the age of eighteen.

20 e. Entry by a person under the age of twenty-one onto the  
21 premises of a racetrack, excursion boat, or gambling structure.

22 f. Entry by a person under the age of eighteen onto  
23 the premises of a business establishment other than an  
24 establishment identified in paragraph "b", "c", or "e" of this  
25 section where such entry is prohibited by persons under the age  
26 of eighteen.

27 g. Obtaining employment in violation of chapter 92.

28 ~~4.~~ 5. A violation of this section is an unlawful practice  
29 under section 714.16.

30 ~~5.~~ 6. Violations of this section shall be prosecuted in any  
31 of the following venues:

32 a. In the county in which the violation occurred.

33 b. If the violation was committed in more than one county,  
34 or if the elements of the offense were committed in more than  
35 one county, then in any county where any violation occurred or

1 where an element of the offense occurred.

2     *c.* In the county where the victim resides.

3     *d.* In the county where the property that was ~~fraudulently~~  
4 ~~used or attempted to be used~~ subject to the violation was  
5 located at the time of the violation.

6     ~~6.~~ 7. Any real or personal property obtained by a person  
7 as a result of a violation of this section, including but not  
8 limited to any money, interest, security, claim, contractual  
9 right, or financial instrument that is in the possession of the  
10 person, shall be subject to seizure and forfeiture pursuant to  
11 chapter 809A. A victim injured by a violation of this section,  
12 or a financial institution that has indemnified a victim  
13 injured by a violation of this section, may file a claim as  
14 an interest holder pursuant to section 809A.11 for payment of  
15 damages suffered by the victim including costs of recovery and  
16 reasonable attorney fees.

17     ~~7.~~ 8. A financial institution may file a complaint  
18 regarding a violation of this section on behalf of a victim  
19 and shall have the same rights and privileges as the victim if  
20 the financial institution has indemnified the victim for such  
21 violations.

22     ~~8.~~ 9. Upon the request of a victim, a peace officer in  
23 any jurisdiction described in subsection 5 6 shall take a  
24 report regarding an alleged violation of this section and shall  
25 provide a copy of the report to the victim. The report may also  
26 be provided to any other law enforcement agency in any of the  
27 jurisdictions described in subsection 5 6.